



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/147869

PRELIMINARY RECITALS

Pursuant to a petition filed March 08, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance/Family Care, a hearing was held on May 16, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's cost share for the Family Care program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Brian Williams
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On January 29, 2013, the agency issued a Notice of Decision to the Petitioner informing him that effective February 1, 2013, his cost share for the Family Care program was \$310.35/month. This was based on Social Security income of \$1,091.10/month, a pension of \$435.40/month, rent

expense of \$283/month, a WPS health insurance expense of \$284.25/month and an AARP health insurance expense of \$41.90/month.

3. On February 11, 2013, the agency issued a Notice of Decision to the Petitioner informing him that effective March 1, 2013, his cost share for the Family Care program was \$594.60/month. The only change to the Petitioner's income and expenses was that he discontinued the WPS health insurance at a cost of \$284.25/month.
4. On February 19, 2013, the Petitioner submitted a Medical Remedial Expense Form to the agency documenting \$155.61/month in medical remedial expenses.
5. On March 4, 2013, the agency issued a Notice of Decision to the Petitioner informing him that effective March 1, 2013, his cost share for the Family Care program was \$438.99/month. This reflected the change in the Petitioner's medical remedial expenses.
6. Effective May 1, 2013, the Petitioner's Social Security income increased to \$1,126.10/month.
7. Effective May 1, 2013, the Petitioner's cost share for the Family Care program is \$473.99/month. This reflects the change in the Petitioner's Social Security income.
8. On March 8, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

1. People 18 and over who meet full benefit EBD Medicaid financial and non-financial requirements and who are also functionally eligible for FC at either the nursing home or non-nursing home level of care.
2. People 18 and over who meet BC+ Standard Plan, Well Woman Medicaid, Medicaid through Adoption Assistance or Foster Care financial and non-financial requirements and who are functionally eligible for FC at either the nursing home or non-nursing home level of care.

Group B eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is at or below the special income limit (See the Community Waivers Special Income Limit in 39.4.1)

Group C eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is above the special income limit (see the Community Waivers Special Income Limit in 39.4.1), but whose allowable monthly expenses are sufficient to reduce their income to the medically needy limit (See EBD Medically Needy Limits in 39.4.1.)

Medicaid Eligibility Handbook (MEH), §29.3.1.

The elderly, blind and disabled (EBD) financial income limit is \$591.67 and the Community Waivers Special Income Limit is \$2094.00. MEH, §39.4.1. As Petitioner's gross income was \$1526.50 through April 30, 2013 and \$1561.50 effective May 1, 2013, it is apparent that he falls into the group B category of Family Care eligibility.

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. MEH, § 28.5.1. Payment of the cost share is a condition of eligibility. Id.

Social Security benefits are countable as income. See MEH, §15.4.4 and 10. The allowable deductions are the personal maintenance allowance and, where the FCP member is the custodial parent, a family maintenance allowance. MEH, §§28.8.3.1 and 28.8.3.2. The personal maintenance allowance is calculated as follows:

28.8.3.1 Personal Maintenance Allowance

The Personal Maintenance Allowance is an income deduction used primarily when calculating a cost share for a Group B waiver member. However, it is also used in the cost share calculation of a Group C waiver member when completing Section C of the Spousal Impoverishment Income Allocation Worksheet (18.6.4).

The personal maintenance allowance (Line 6 and Page 2 of the worksheet) is for room, board, and personal expenses. It is the total of:

1. Community Waivers Basic Needs Allowance (See 39.4.2 EBD Deductions and Allowances)
2. \$65 and ½ earned income deduction (See 15.7.5 \$65 and ½ Earned Income Deduction).
3. Special housing amount. This is an amount of the person's income set aside to help pay housing costs. If the waiver applicant's housing costs are over \$350, add together the following costs:
 - a. Rent.
 - b. Home or renters insurance.
 - c. Mortgage.
 - d. Property tax (including special assessments).
 - e. Utilities (heat, water, sewer, electricity).
 - f. "Room" amount for members in a Community Based Residential Facility (CBRF), Residential Care Apartment Complex (RCAC) or an Adult Family/Foster Allowance.) Home (AFH).
The case manager determines and provides this amount.

The total, minus \$350, equals the special housing amount. The person can set this amount aside from his/her income.

...

MEH, §28.8.3.1.

An additional deduction is available for health insurance premiums for which the participant is responsible and pays a premium. MEH, §28.8.3.4.

Further, a deduction is allowed for certain medical remedial expenses. MEH, §28.8.3.5.

In this case, the Petitioner received a number of notices regarding changes to his cost share. The agency conceded that it was likely confusing for the Petitioner to determine why there were so many changes over a short period of time. At the hearing, the agency reviewed each of the notices and the reason for the changes in the cost share.

The Petitioner conceded that the agency correctly budgeted his income. For the cost share of \$310.35/month effective February 1, 2013, the Petitioner testified that the agency properly considered his rent expense of \$283/month and properly deducted insurance expenses of \$41.90/month and \$284.25/month.

For the cost share of \$594.60/month effective March 1, 2013, the Petitioner conceded that he no longer carried the WPS insurance and no longer had that insurance payment of \$284.25/month. This lowered his deduction for health insurance premiums to \$41.90/month for his AARP insurance. As a result, his cost share increased. However, before this cost share became effective, the Petitioner submitted medical remedial expenses of \$155.61/month. This reduced the cost share to \$438.99.

For the cost share of \$473.99/month effective May 1, 2012, the Petitioner concedes that his Social Security income increased as of May 1, 2012.

The agency provided the budget screens and supporting documentation for each change to the Petitioner's cost share. I reviewed all of those screens and documents and determined that the agency properly calculated the monthly cost share based on changes made to the Petitioner's circumstances during the period of January 1, 2013 – May 1, 2013.

CONCLUSIONS OF LAW

The agency properly calculated the Petitioner's monthly cost share for the Family Care program for the period of January 1, 2013 – May 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

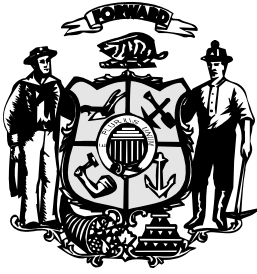
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of May, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 22, 2013.

Milwaukee Enrollment Services
Office of Family Care Expansion